



4000-01-U

DEPARTMENT OF EDUCATION

Intent to Compromise Claim Against the State of Washington

Department of Services for the Blind

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The United States Department of Education (Department) intends to compromise a claim against the State of Washington Department of Services for the Blind (Washington) now pending before the Office of Administrative Law Judges (OALJ), Docket No. 15-30-R. Before compromising a claim, the Department must publish its intent to do so in the Federal Register and provide the public an opportunity to comment on this action.

DATES: We must receive your comments on the proposed action on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Address all comments concerning the proposed action to Marcus Hedrick, Office of the General Counsel, U.S. Department of Education, 400 Maryland Avenue, SW., room 6E220, Washington, DC 20202-2110.

FOR FURTHER INFORMATION CONTACT: Marcus Hedrick.

Telephone: 202-401-8316 or by email:

marcus.hedrick@ed.gov.

If you use a telecommunications device for the deaf or a text telephone, you may call the Federal Relay Service, toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Invitation To Comment: We invite you to submit comments regarding this proposed action. During and after the comment period you may inspect all public comments in room 6E312, FB-6, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing Comments: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Background:

On March 10, 2015, the Acting Assistant Secretary for Special Education and Rehabilitative Services (Assistant Secretary) issued two program determination letters (PDLs) seeking to recover a total of \$730,053 of Vocational Rehabilitation (VR) State grant funds from Washington. Based on findings in single audits of Washington (Audit Control Numbers 10-12-38440 and 10-13-48310), these funds were determined by the Assistant Secretary to have been expended, during the fiscal years 2012 and 2013, in violation of the indirect cost provisions under the Education Department General Administrative Regulations at 34 CFR 76.560. Specifically, the PDLs indicated that Washington had charged indirect costs to the VR grant program without an approved indirect cost agreement, and identified \$621,871 for recovery in fiscal year 2012 and \$108,182 for recovery in fiscal year 2013.

Washington filed *Applications for Review* of these PDLs with the OALJ on May 14, 2015. On June 9, 2015, the OALJ proposed processing the two appeals under one docket number, and with consent of the parties subsequently combined the appeals. On June 27, 2015, the OALJ granted the parties' *Joint Motion to Request Mediation, Waive 81.39(a) and Suspend the Procedural Schedule (Joint*

Motion). Since the *Joint Motion* was granted, Washington and the Department have engaged in facilitated mediation to attempt to resolve the recovery action.

The Department proposes to compromise the total claim to \$530,053 (the fiscal year 2012 recovery will be reduced to \$451,605 and the fiscal year 2013 recovery will be reduced to \$78,447). The Department has determined that it would not be practical or in the public interest to continue proceeding, based on litigation risks and the cost of proceeding through the administrative, and possible court, process for this appeal. Also, in light of corrective actions Washington has taken, the Department does not anticipate this violation of the indirect cost provisions will recur. As a result, under the authority in 20 U.S.C. 1234a(j), the Department has determined that compromise of this claim to \$530,053 is appropriate and in the public interest. The public is invited to comment on the Department's intent to compromise this claim. Additional information may be obtained by calling or writing the contact person listed under FOR FURTHER INFORMATION CONTACT.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g.,

braille, large print, audio tape, or compact disc) on request to the contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to this Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the Federal Register, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the Federal Register by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: 20 U.S.C. 1234a(j).

Delegation of Authority: The Secretary of Education has delegated authority to Thomas P. Skelly to perform the functions and duties of the Chief Financial Officer of the Department of Education.

Date: December 11, 2015

Thomas P. Skelly,
Delegated to perform the functions
And duties of the Chief Financial
Officer

[FR Doc. 2015-31900 Filed: 12/17/2015 8:45 am; Publication Date: 12/18/2015]